



CITY OF DUBLIN

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www.dublin.ca.gov

REQUEST FOR PROPOSALS

Date: February 11, 2016

Project Title: Project Clover Retail Center Supplemental EIR

Description: The project consists of development of approximately 430,000 square feet of retail commercial uses on a 27.5-acre site at the corner of Hacienda Drive and Interstate 580. The anchor tenant will be a large format retailer (IKEA) and the site will include four additional pad buildings.

The City is seeking a qualified environmental consultant (or consultant team) with experience with large scale retail centers to complete the necessary CEQA documentation for site rezoning, design review, and other associated entitlements for the project. The CEQA documentation is assumed to be a Supplemental Environmental Impact Report (SEIR).

Proposal Due: Friday, February 26, 2016 at 5:00 p.m.

Interviews: Week of February 29, 2016

Contract Awarded: Tuesday, March 15, 2016 (City Council consideration)

Project Timeline: Very aggressive timeline with an aim to complete CEQA work by September 2016 if at all possible, with public hearings to follow in October and November 2016.

Contact: Kristi Bascom, Principal Planner
Community Development Department
925-556-4557, kristi.bascom@dublin.ca.gov

Introduction

The City of Dublin is located at the intersection of Highways I-580 and I-680 in eastern Alameda County. The City was incorporated in 1982 and has a current population of approximately 50,000 people. Over the past twenty years, much of the growth focused on the undeveloped land in eastern Dublin. Today, the City is experiencing redevelopment/revitalization of existing developed areas and transit-oriented development around the Dublin/Pleasanton Bay Area Rapid Transit (BART) station and in the City's commercial core: Downtown Dublin.

The City of Dublin is inviting proposals from qualified planning consultants (or consultant teams) to prepare a Supplemental Environmental Impact Report (EIR) for the Project Clover Retail Center at the crossroads of Hacienda Drive and Interstate 580. The successful consultant will have significant experience preparing CEQA documentation for large-format retail uses.

Background

The 27.5 acre subject property at 5144 Martinelli Way has a General Plan land use designation of "General Commercial". The proposed retail restaurant, hotel, and service commercial uses are allowed by the existing General Plan and Eastern Dublin Specific Plan – no amendments to either document will be needed. The proposed retail center will be comprised of the following elements:

- 377,479 square foot IKEA store
- A 75-room hotel or 16,400 SF retail building (either one or the other)
- 8,000 SF retail building
- 8,000 SF restaurant building
- 3,600 SF retail building

The conceptual site plan is included as Attachment 1 and a more detailed description of the proposed project is included as Attachment 2. The details of the project have not been reviewed and accepted by the City, but the two attachments provide a good basis of understanding the size and scope of the project for the purposes of preparing a scope and budget for the CEQA work.

Proposal

It will be the consultant's responsibility to prepare a comprehensive project-level Supplemental Environmental Impact Report for the project, consistent with the State Guidelines for CEQA. The environmental review will be conducted concurrently with Planning Staff as the project entitlement applications are reviewed and analyzed. Development of mitigation measures shall be an iterative process concurrent with the project review such that the mitigation measures can be incorporated, where appropriate, into the project itself. The consultant will be responsible for preparing an Initial Study, Administrative Draft SEIR, a Draft SEIR to be circulated for public review and comment, and the Final SEIR, including a Mitigation and Monitoring Program.

There are three previous environmental documents that have been prepared that are applicable to this site, including:

1. Eastern Dublin Specific Plan and General Plan Amendment EIR (certified in 1993)
2. IKEA EIR (certified 2004)
3. The Green SEIR (prepared, but not certified)

At a minimum, the Project Clover SEIR is expected to include the technical studies listed below:

- Traffic and Transportation
- Air Quality/Greenhouse Gas
- Noise
- Biological Resource Assessment/Wetland Delineation

- Other studies determined to be appropriate

The Applicant is expected to have completed a few background technical studies on the property that will be made available to the successful consultant team, including a topographic survey, geotechnical study, and Phase 1/Phase 2 Environmental Site Assessments. The successful consultant shall be responsible for identifying and completing all other studies, analyses, and tasks necessary for the Supplemental EIR.

Organization of Proposal

1. Introduction

A general introduction and description of the proposed approach and methodology shall be provided. The format of the introduction and description of the approach is at the discretion of the consultant, but it should include a short discussion of the intended approach to the project which succinctly demonstrates the consultant's understanding of the SEIR process, those impact areas to be studied, and the consultant's ability to successfully address them.

2. Scope of Work

Describe the work program to accomplish the approach described above. The work program shall provide a detailed description of the work to be accomplished. This format should be repeated throughout the scope of work until all of the proposed work has been described in detail.

3. Schedule

Describe the time schedule for each proposed task and subtask described in the Scope of Work. Proposed work periods and completion dates, as well as the anticipated meeting dates should also be identified. The proposed project schedule should be provided in a timeline chart. The schedule should highlight anticipated public review periods, meeting dates, and key milestones.

4. Personnel, Equipment and Facilities

If desired, the respondent to this RFP may assemble a consultant team under one primary consultant with sub-consultant(s) in different areas of expertise. The proposal shall list all sub-consultants proposed for this project. Include their qualifications and specific responsibilities.

Describe the activities of the designated Project Manager, and lead and supporting personnel. Provide resumes for those named, including their qualifications (education and experience), and their relationship and cost to the proposed project activities. If there is a team of consultants, the lead consultant should be clearly designated and the Project Manager within that lead firm clearly identified. All sub-consultants shall be billed through the lead consultant. The City will require that no personnel changes be made during the project without prior City approval.

5. Qualifications and References

Provide a description of your project team's qualifications and a list of similar, completed projects.

6. Cost Schedule

All consultants who respond to this RFP should propose a "Not to Exceed" maximum dollar amount that will be the maximum cost to complete the project scope, including expenses and sub-consultant work. The cost schedule should list the cost associated with each task and list the sub-consultant that is assigned to the project.

7. Statement of Offer and Signature

The proposal shall be signed by an individual authorized to bind the consultant, shall contain a statement to the effect that the proposal is a firm offer for a 60-day period, and shall contain a statement that the proposed work will be performed at the “not-to-exceed” price.

8. Comments on City Standard Consulting Services Agreement

Attachment 3 to this Request for Proposals is a copy of the City’s Standard Consulting Services Agreement, which will need to be executed prior to the commencement of consultant work on the project. The proposal should include a statement that the Agreement has been reviewed and is acceptable to the consultant, should the firm be recommended for award of contract, or a statement that the Agreement would need to need to be modified and noting those specific modifications.

Criteria for Proposal Acceptance

The City of Dublin desires to retain the services of a firm that has significant experience in CEQA documentation that includes preparing an EIR for a large-format user anchored retail center.

Primary consideration will be given to the general appropriateness of the proposal for the project, the technical competence and ability of the consultants (as described in the proposal), the experience of the consultant in projects of a similar nature, references, and the firm’s willingness to work closely with City Staff. The City reserves the right to reject all proposals that are inappropriate or inadequate.

The City reserves the right to invite the top candidate(s) for an oral interview, or to request additional clarifying information. The highest rated firm may be invited to negotiate a final agreement. If an agreement is not reached, negotiations may be terminated and commenced with the next most qualified firm. The recommendation of the Planning Division will be submitted by the City Council for award of contract.

Limitations

- All reports and pertinent data or materials shall be the sole property of the City of Dublin, and may not be used or reproduced in any form without the explicit written permission of the City.
- The City reserves the right to extend the time allotted for the proposal, to examine verbally the bidder in person, request copies of previous work prepared by the consultant and to request a best and final offer, should the City deem that it is in its best interests to do so.
- This RFP does not commit the City to award a contract, or to pay any costs incurred in the preparation of the proposal. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified consultant, or to cancel this request in part or in its entirety. The City may require the selected consultant to participate in negotiations and to submit such technical, price, or other revisions of their proposals as may result from negotiations.

Submittal Deadline

Please submit three (3) hard copies and one PDF of your proposal by no later than **5:00 p.m. on Friday, February 26, 2016**. Any questions about this RFP should be directed to Kristi Bascom, Principal Planner via email (Kristi.bascom@dublin.ca.gov) or phone (925-556-4557).

Please note: In accordance with California Public Code section 20103.6, potential responders are notified that the contract that will be awarded to the successful responder will include the following provision: Consultant shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of

their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

Notwithstanding the foregoing, to the extent that this Agreement is a "construction contract" as defined in California Civil Code section 2783, as amended from time to time, such duty to indemnify shall not apply when to do so would be prohibited by California Code section 2782.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

The City of Dublin may reject any and all proposals.

Attachments:

1. Preliminary Project Description
2. Preliminary Site Plan
3. City's Standard Consulting Services Agreement

PROJECT CLOVER, DUBLIN, CA - SWC HACIENDA DRIVE & MARTINELLI WAY

A REQUEST FOR PRE-APPLICATION REVIEW

The applicant, Greenberg Farrow, is requesting a pre-application review of exhibits that will be submitted for the approval of Site Development Review and Phase I and II Development Plans, a Tentative Subdivision Map, and a Master Sign Program at a later date.

B. SUMMARY OF PROPOSAL

The applicant is proposing a 399,499 square foot commercial-retail center on a 27.446 gross acre site that is located on the north side of the I-580 freeway between Hacienda Drive and Arnold Road and south of Martinelli Way, in the City of Dublin, CA. A portion of the site has been allocated for dedications that are anticipated along Arnold Road and a future extension to the Bay Area Rapid Transit line along the project's I-580 frontage. The result is a 26.894 net acre site.

The commercial-retail center will be anchored by an IKEA store that is to be constructed with an area of 339,099 square feet. Future expansions that are proposed for the building will result in an IKEA store with an area of 377,479 square feet and a commercial-retail center with an area of 429,879 square feet.

A 32,800 square foot hotel or 16,400 square foot retail use, an 8,000 square foot restaurant, a 3,600 square foot retail use, and an 8,000 square foot restaurant or retail use are also proposed for the site.

B. SITE INFORMATION

Address:	TBD
APN:	986-003-004-00, 986-0033-005-02, & 986-0033-006-00
Gross Site Area:	27.446 acres
Net Site Area:	26.894 acres
Zoning Designation:	Planned Development (PD)
Land Use Designation:	General Commercial (GC)
Specific Plan:	Eastern Dublin Specific Plan
Planning Subarea:	Hacienda Gateway

C. SITE DESCRIPTION

1. Surrounding Land Use

The Hacienda Crossings commercial-retail center is located across Hacienda Drive to the east of the site. The Persimmon Place commercial-retail center is located across Martinelli Way to the north of the site. Properties to the west of the project site across Arnold Drive are vacant. The I-580 Freeway forms the southern boundary of the site.

2. Existing Conditions

The site is vacant with the exception of one small prefabricated sales office building that is located along in the approximate center of the site along the project's Martinelli Way frontage.

The site is relatively flat, sloping downward from north to south. The elevation ranges from approximately 350 feet in the north to approximately 340 feet in the south.

The site has been graded and contains areas where soil has been piled and excavated. As a result, minor topographic variations occur. The minor variations in topography contain 1.92 acres of seasonal wetland depressions regulated by the RWQCB as Water of the State. These wetlands were determined to be isolated and are therefore non-jurisdictional under section 404 of the Clean Water Act.

The majority of the site is dominated by non-native annual grassland. Approximately 6.81 acres containing Congdon's tarplant are intermixed with the grassland habitat.

Existing infrastructure elements such as roads, sewer, storm drain, potable and recycled water, natural gas, and electricity are located immediately adjacent to the site.

Access to the site is presently provided as follows:

Martinelli Way: A signalized full entry is provided along Martinelli Way in the approximate center of the site. The entry is aligned with the Persimmon Place commercial center to the north. Two non-signalized driveways are provided to the east and west of the main driveway.

Arnold Road: Two restricted right-turn in and right-turn-out driveways are provided along Arnold Road. One of the restricted access driveways is located at the approximate center of the site. The other restricted access driveway is located to the north in proximity to Martinelli Way. A third point of access is provided from the T-intersection located at the terminus of Arnold Road at the most southerly portion of the site.

3. Proposed Conditions

Existing site access would be modified as follows:

Martinelli Way: The signalized full entry along Martinelli Way would remain in-place. The non-signalized driveway to the west of the main driveway would be eliminated. The non-signalized driveway to the east of the main driveway would remain in-place with turn movements restricted to right-turn-in and right-turn-out only.

Major 1 Way/IKEA Way: The signalized full entry would provide access to a private street to be called IKEA Way.

Arnold Road: The median in Arnold Road that restricts movements at the driveway located in the approximate center of the site would be modified to provide full access to the site. A cul-de-sac would replace the T-intersection at the terminus of Arnold Road. Access to the site would be provided from the cul-de-sac.

The project would involve constructing a commercial-retail development on the site that would include the following:

- **MAJOR 1 RETAIL (IKEA Initial Construction 339,099 SF):**

The 339,099 square foot IKEA building is comprised of two levels.

The 232,106 square foot first floor includes:

- A full-serve warehouse area that is not accessible to the general public. The warehouse has an area of approximately 32,227 square feet.
- A self-serve furniture area that is accessible to the general public. The self-serve furniture area has an area of approximately 66,090 square feet.

- Approximately 133,735 square feet of the first floor is dedicated to general retail uses such as: a receiving area, retail areas, customer service area, a supervised children's play area, a bistro selling hot dogs, pizza and other such items, and a Swedish food market selling items, including but not limited to, prepackaged frozen and dry food.

The 106, 993 square foot second floor includes:

- A furniture showroom of approximately 58,663 square feet.
- A restaurant to serve customers with an area of approximately 13,616 square feet.
- An office area of approximately 34,714 square feet.

Parking:

Parking for Major 1 Retail / IKEA (Initial Construction 339,099 SF) is provided as follows:

<u>User</u>	<u>Ratio Required</u>	<u>Spaces Req'd</u>	<u>Spaces Provided</u>
Restaurant 13,616 SF	1 Space / 100 SF Accessible to Customers & 1 Space / 300 SF Not Accessible to Customers	100	
Warehouse 32,281 SF	1 Space / 1000 SF	33	
Furniture 124,754 SF	1 Space / 400 SF	312	
General Retail 168,398 SF	1 Space / 300 SF	562	
Total Major 1 Retail / IKEA		1,007¹	1,159¹

¹Reciprocal parking is proposed throughout the center.

o **Major 1 Retail / IKEA (Future Expansion 377,579 SF):**

A 38,380 square foot future expansion to the building is proposed as follows:

- A 17,600 square foot two-level addition to the north side of the building that will include 8,800 square feet of furniture area and 8,800 square feet of general retail use.
- A 20,780 square foot single-level expansion to the south side of the building that will be devoted to warehouse use.

Parking:

Parking for Major 1 Retail / IKEA (Future Expansion 377,099 SF) is provided as follows:

<u>User</u>	<u>Ratio Required</u>	<u>Spaces Req'd</u>	<u>Spaces Provided</u>
Restaurant 13,616 SF	1 Space / 100 SF Accessible to Customers & 1 Space / 300 SF Not Accessible to Customers	100	
Warehouse 53,157 SF	1 Space / 1000 SF	55	
Furniture 133,554 SF	1 Space / 400 SF	334	
General Retail 177,198 SF	1 Space / 300 SF	591	
Total Major 1 Retail / IKEA (Future Expansion 377,579 SF)		1,080¹	1,060¹

¹Reciprocal parking is proposed throughout the center.

Building Design:

The Major 1 Retail/IKEA building has a proposed height of approximately 43'-6" feet as measured off the proposed finished floor elevation.

The principal loading docks are located at the rear of the building along the project's Arnold Road frontage. The recycling and refuse collection area and trash compactor will be located within the loading dock area. The loading area will also house a diesel-powered emergency generator and the electrical transformer. Two loading docks for home deliveries are located on the south side of the building along the project's I-580 frontage.

The building design reflects a contemporary theme incorporating blue and yellow, the signature colors of IKEA (and of Sweden). Bold elements containing large areas of storefront glazing would create a dramatic focal point at the entrance, highlighting this area and the restaurant on the second floor. In addition, covered walkways would be incorporated along the front to provide protection and interest. The building facades would be broken up by bold geometry, and varying building materials such as composite metal panels, steel elements and clear anodized glass and aluminum storefront that are durable and of high quality.

The proposed building is designed to be sustainable and energy efficient including but not limited to an energy saving building envelope consisting of insulated composite metal panels, cool roof, recyclable materials, day-lighting, low water use plumbing fixtures, and energy efficient mechanical and electrical systems. IKEA also will evaluate potential on-site power generation to complement its current U.S. renewable energy presence at nearly 90% of its U.S. locations, including the stores in East Palo Alto and Emeryville.

Operations:

The IKEA store is expected to be open for business from Monday through Sunday from 10:00 AM to 9:00 PM. Longer operational hours may be applicable during holidays or to accommodate future operational needs or market conditions. Approximately 5 - 7 delivery trucks would access the site daily. Main deliveries would typically occur during non-public hours. Additionally, 5 - 10 trucks for home deliveries would occur during business hours. The store is anticipated to have 150 employees per shift, and a total of approximately 350 employees.

Signage:

IKEA's signage will include building and wall signage, as well as site informational and directional signage. A site feature with sign panels for a single-user (IKEA) is proposed for the southeast corner of the retail-commercial center. The top of the IKEA sign panel is located at a height of 120 feet. The support structure extends an additional 8 feet, for a total height of 128 feet. Additional ground signs are to be incorporated adjacent to the Project's access points.

IKEA's trademark flag circle would be located to the west of the primary point of access to the site along Martinelli Way. Flags of the United States, Sweden and the State of California will be located near the building entrance.

Wall signs are proposed on four sides of the building. Building identification wall signs will contain individual channel letters that are mainly externally illuminated, although a few are both internally and externally illuminated. An externally illuminated seasonal façade sign panel is also proposed on four building elevations.

Signage exhibits will included in the formal submittal package.

○ **HOTEL (32,800 SF) OR RETAIL (16,400 SF):**

A two-story hotel or a single-story retail use are proposed.

- The 32,800 square foot hotel building is anticipated to have approximately 75 rooms. An eating and drinking establishment is not proposed in conjunction with the hotel use.
- A single-story retail use would have an area of 16,400 square feet.

Parking:

Parking for the Hotel (32,800 SF) or Retail (16,000 SF) use is provided as follows:

<u>User</u>	<u>Ratio Required</u>	<u>Spaces Req'd</u>	<u>Spaces Provided</u>
Hotel 32,800 SF	1 per room, plus 1 per 250 SF of office, 1 per 300 SF of retail, 1 per 100 SF of eating and drinking facility, and 1 per employee on the largest shift	95	100
General Retail 16,400 SF	1 Space / 300 SF	55	100
Total Hotel or Retail		95	100

○ **PAD 1 RESTAURANT OR RETAIL (8,000 SF):**

A retail or restaurant use is proposed for the 8,000 square foot building.

Parking:

Parking for the 8,000 square foot building is provided as follows:

<u>User</u>	<u>Ratio Required</u>	<u>Spaces Req'd</u>	<u>Spaces Provided</u>
Restaurant 8,000 SF	1 Space / 100 SF Accessible to Customers & 1 Space / 300 SF Not Accessible to Customers	44	76
General Retail 8,000 SF	1 Space / 300 SF	27	76
Total Pad 1 Restaurant or Retail (8,000 SF)		44 or 27	76

○ **PAD 2 RETAIL (3,600 SF):**

Parking:

Parking for the 3,600 square foot retail building is provided as follows:

<u>User</u>	<u>Ratio Required</u>	<u>Spaces Req'd</u>	<u>Spaces Provided</u>
General Retail 3,600 SF	1 Space / 300 SF	12	16
Total Pad 2 Retail (3,600 SF)		12	16

○ **PAD 3 RESTAURANT (8,000 SF):**

Parking:

Parking for the 8,000 square foot restaurant building is provided as follows:

User	Ratio Required	Spaces Req'd	Spaces Provided
Restaurant 8,000 SF	1 Space / 100 SF	59	73
	Accessible to Customers & 1 Space / 300 SF		
	Not Accessible to Customers		
Total Pad 3 Restaurant (8,000 SF)		59	73

○ **OVERALL PARKING:**

With IKEA Initial Construction:

User	Spaces Req'd	Spaces Provided
Total Major 1 Retail / IKEA (339,099 SF Initial Construction)	1,007	1,159
Total Hotel (32,800 SF) or Retail (16,400 SF)	95	100
Total Pad 1 Restaurant or Retail (8,000 SF)	44	76
Total Pad 2 Retail (3,600 SF)	12	16
Total Pad 3 Restaurant (8,000 SF)	59	73
Total Parking	1,217	1,424

With IKEA Expansion:

User	Spaces Req'd	Spaces Provided
Total Major 1 Retail / IKEA (377,579 SF Future Expansion)	1,080	1,060
Total Hotel (32,800 SF) or Retail (16,400 SF)	95	100
Total Pad 1 Restaurant or Retail (8,000 SF)	44	76
Total Pad 2 Retail (3,600 SF)	12	16
Total Pad 3 Restaurant (8,000 SF)	59	73
Total Parking	1,290	1,325

9' x 18' parking stalls and reciprocal parking are proposed throughout the center.

○ **SITE COVERAGE:**

Building Area (with IKEA Initial Construction & Hotel Use):

Major 1/IKEA First Floor	232,106 SF
Major 1/IKEA Second Floor	106,993 SF
Hotel First Floor	16,400 SF
Hotel Second Floor	16,400 SF
Pad 1 Retail/Restaurant	8,000 SF
Pad 2 Retail	3,600 SF
Pad 3 Restaurant	8,000 SF
Total Building Area	391,499 SF

399,499 SF Total Building Area (with IKEA Initial Construction & Hotel Use) / 26.894 Net Acres = 0.34 FAR

Building Area (with IKEA Expansion & Hotel Use):

Major 1/IKEA First Floor	261,686 SF
Major 1/IKEA Second Floor	115,793 SF
Hotel First Floor	16,400 SF
Hotel Second Floor	16,400 SF
Pad 1 Retail/Restaurant	8,000 SF
Pad 2 Retail	3,600 SF
Pad 3 Restaurant	8,000 SF
Total Building Area	429,979 SF

429,979 SF Total Building Area (with IKEA Expansion & Hotel Use) / 26.894 Net Acres = 0.37 FAR

Building Area (with IKEA Initial Construction & Retail Use):

Major 1/IKEA First Floor	232,106 SF
Major 1/IKEA Second Floor	106,993 SF
Retail (in lieu of Hotel)	16,400 SF
Pad 1 Retail/Restaurant	8,000 SF
Pad 2 Retail	3,600 SF
Pad 3 Restaurant	8,000 SF
Total Building Area	375,099 SF

375,099 SF Total Building Area (with IKEA Initial Construction & Retail Use) / 26.894 Net Acres = 0.32 FAR

Building Area (with IKEA Expansion & Retail Use):

Major 1/IKEA First Floor	261,686 SF
Major 1/IKEA Second Floor	115,793 SF
Retail (in lieu of Hotel)	16,400 SF
Pad 1 Retail/Restaurant	8,000 SF
Pad 2 Retail	3,600 SF
Pad 3 Restaurant	8,000 SF
Total Building Area	413,579 SF

413,579 SF Total Building Area (with IKEA Expansion & Retail Use) / 26.894 Net Acres = 0.35 FAR

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF DUBLIN AND
PROJECT SPECIFIC MASTER CONTRACT**

THIS AGREEMENT for consulting services is made by and between the City of Dublin ("City") and _____ ("Consultant") as of _____, 200_.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on _____, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed _____, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Said invoices shall reflect the specific tasks and timetables identified in Exhibit A attached. Invoices shall contain the following information:
- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
 - The beginning and ending dates of the billing period;
 - A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
 - At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
 - The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
 - The Consultant's signature.
- 2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 **Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within sixty (60) days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.
- 2.4 City shall make no payment for any extra, further or additional services pursuant to this Agreement unless such extra service and the price therefore is agreed to in writing, executed by the City Manager or other designated official of the City authorized to obligate

City thereto prior to the time such extra service is rendered and in no event shall such change order exceed twenty-five percent (25%) of the initial contract price.

- 2.5 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.6 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the following fee schedule:

- 2.7 **Reimbursable Expenses.** Reimbursable expenses are specified below, and shall not exceed (\$). Expenses not listed below are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

- 2.8 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

- 2.9 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

- 2.10 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City may furnish physical facilities such as desks, telephone service, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.2 **Commercial General and Automobile Liability Insurance.**

- 4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and its officers, employees, agents, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.
- d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3 **Professional Liability Insurance.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

- 4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- 4.3.3 The policy must contain a cross liability or severability of interest clause.
- 4.3.4 The following provisions shall apply if the professional liability coverages are written on a claims-made form:
 - a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
 - c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.
 - d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 **All Policies Requirements.**

- 4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- 4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.
- 4.4.3 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 **Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

4.4.5 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

4.4.6 **Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole

or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon _____ days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that

City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.

- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

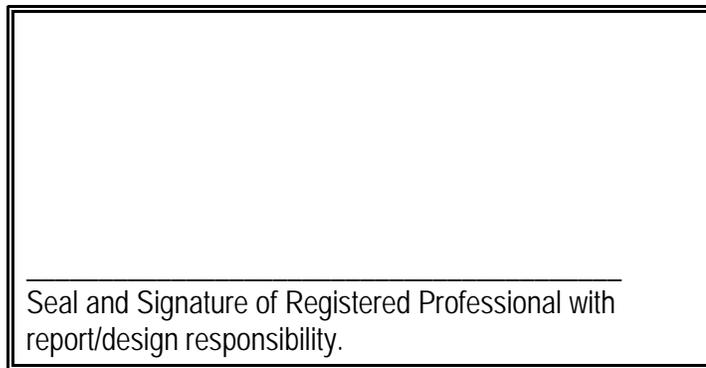
Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 **Contract Administration.** This Agreement shall be administered by _____ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 **Notices.** Any written notice to Consultant shall be sent to:

Any written notice to City shall be sent to:
Kristi Bascom, Principal Planner
City of Dublin Community Development Department
100 Civic Plaza
Dublin, CA 94568

10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



10.12 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

CITY OF DUBLIN

CONSULTANT

Christopher L. Foss, City Manager

[NAME, TITLE]

Attest:

Caroline Soto, City Clerk

Approved as to Form:

John D. Bakker, City Attorney

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B

COMPENSATION SCHEDULE

City hereby agrees to pay Consultant a sum not to exceed _____ .

In the event of a conflict between this Agreement and Scope of Services, attached as (Exhibit A), regarding the amount of compensation, the Agreement shall prevail.

Consultant shall not bill for any reimbursable items unless previous approval has been granted.